

REMARKS

The Office Action dated July 7, 2004 has been carefully considered. In the Office Action, claims 1-21 were rejected. By way of this amendment, claims 7, 12 and 19 have been amended. Claims 1-21 remain in the present application. Applicant respectfully requests reexamination and reconsideration of the claims in view of the foregoing amendments and the following remarks.

With respect to the § 112 rejections, Applicant respectfully submits that claim 7 as originally presented simply defines an inherent property of a product that is stamped formed from sheet metal in that it includes a generally uniform cross-sectional thickness throughout. To make it even more clear, Applicant has further clarified claim 7 to include the word "generally" to allow some slight deviance and to also clarify that it is "when measured perpendicularly between opposed sides of the bracket and not through an outer peripheral edge of the bracket". Thus, Applicant is intending to impart the commonly understood meaning for "thickness" rather than some superficial longitudinal measure or a measure through some obscure cross-section. For the Examiner's reference, the opposed sides are the same opposed top and bottom flat sides of the sheet metal material as it commonly comes in stock form thereby differentiating it from the edges which may often be cut. Accordingly, it is respectfully submitted that the indefiniteness rejections should be removed in view of the substantial attempt to further clarify what is intended in claim 7, that is, merely defining a common inherent property of a stamped formed sheet metal product.

Turning next to the rejections over the prior art, claims 1-6, 8, 9, and 19-21 have been rejected as obvious over Garfinkle, in view of Hollingsworth et al. The Patent Examiner acknowledges that Garfinkle does not teach an interior chamber with a width less than the width of the vertical support. However, the Examiner asserts that Hollingsworth et al. does teach such a feature and that there is motivation to combine these references.

This rejection is respectfully traversed. First, it is respectfully submitted that the Hollingsworth et al. reference does not disclose an interior chamber that has a horizontal width less than the thickness of the vertical support according to the definitions in claim 1. In particular, the interior chamber as set forth in claim 1 is defined "by the rear surface of the plate and inner surfaces of the first and second prongs". In contrast, the reference passage of Hollingsworth et al. refers to not the rear surface of the plate but instead "the plane" of the rear flat surface of the base portion 255. That base portion is vertically displaced from the referenced prong, and therefore does not meet the clear definition of the interior chamber set forth in claim 1. Simply put, a "plate" is not the same as a "plane". To illustrate, Applicant

directs the Patent Examiner's attention to the attached Exhibit which shows a significantly greater chamber width when measured by the definitions set forth in claim 1 of the subject patent application. Therefore, it is respectfully submitted that the obviousness rejections based upon the asserted combination cannot stand because the references (even when combined) fail to teach an important claim limitation under the defined parameters set forth in claim 1.

As it relates to claims 19-21, the asserted obviousness rejection of these claims over Garfinkle in view of Hollingsworth et al. is also traversed as well. These claims recite that the mounting bracket is stamped from sheet metal such that the plate and prongs have opposed generally flat sides with a generally uniform cross-sectional thickness therebetween. In contrast, neither Garfinkle or Hollingsworth et al. discloses such a sheet metal stamped component, but instead a plastic molded component. Therefore, these references when combined fail to meet the sheet metal limitations. Further, there would be no motivation or teaching to convert either of the mounting devices of Hollingsworth et al. or Garfinkle into a sheet metal component, in part because these devices require complex split-formed, specially configured resilient lugs for insertion and mounting into holes in the vertical support. These lug structures are not seen to be formable with sheet metal. Additionally, the asserted extension 259 does not include "a generally uniform cross-sectional thickness between the opposed flat sides of the prongs as recited in claim 19, and in fact teach the direct opposite that the "extension 259 should be narrowed at elbow 265 to allow proper bending". Col. 13, lns. 55-56. Thus, the asserted Hollingsworth et al. reference additionally teaches the direct opposite of what is claimed in claim 21 of the present application (this also applies to claim 7).

The obviousness rejection of claims 1 and 19 are also respectfully traversed for the reason that there would be no teaching or suggestion to combine the references. In particular, the cited Garfinkle reference discusses having a relatively specific and removable configuration of the hanger since finger tabs 1a and 1b are provided for facilitating removal with simple finger pressure. Thus, there is no motivation for a more secure configuration that would increase finger pressure for removal; and thus the change would be counterproductive to the teachings of the primary reference, Gibitz. Instead, it is respectfully submitted that the combination is being made with the improper use of hindsight, using Applicant's teaching for picking and choosing features out of the prior art to arrive at the claimed combination. Applicant's invention deals with a substantially new way to mount a mounting bracket to the hook without having to use complex split plastic lug configurations such as taught by

Garfinkle and Hollingsworth et al. Accordingly, removal of the obviousness rejections of claim 1 is respectfully solicited.

In view of the comments with respect to claim 7, and that it relates to a sheet metal stamped formed bracket, the asserted combination of Garfinkle and Hollingsworth et al. should not apply to claim 7 and Applicant respectfully requests an indication of allowance of claim 7.

Additionally, it is pointed out that the rejections of claim 8 over the asserted combination of Garfinkle in view of Hollingsworth et al. can not stand either. The asserted prongs (which define the articulated interior chamber in claim 1) are defined in claim 8 as being positioned adjacent a top edge of the plate. In contrast, the extension 259 relied upon in the Hollingsworth et al. reference is at the lower edge to provide pivoting insertion with a split lug configuration located proximate the top edge. This split lug configuration is also at the top in Garfinkle, such that even if these references were combined, the prong 259 upon which the Examiner is relying on Hollingsworth et al. would still be located at the lower edge even when the two references were combined. Again, the only place the teaching is to place them at the top edge is Applicant's disclosure, which is the improper use of hindsight. Indeed, making the upper prongs more secure would defeat or be counterproductive to the finger tab removal feature. Accordingly, Applicant respectfully requests an indication of allowance of claim 8.

The additional rejections of claims 10 and 11 over Garfinkle in view of Hollingsworth et al. and Gibitz is also respectfully traversed. The above comments are equally applicable to these claims but it should be noted that the addition of Gibitz also appears to be improper based upon the improper application of hindsight. Applicant has carefully reviewed the Office Action, but cannot find any reliance on any passage of any of the reference for reasons to include the asserted lower portion 121 of Gibitz into the overall combination of Garfinkle and Hollingsworth et al., particularly considering that the first two references rely upon a plastic split lug mounting configuration while Gibitz relies upon a mounting screw.

Turning to other rejections advanced in the Office Action, the Patent Examiner has also rejected claims 1-6 and 8-21 as obvious over Gibitz in view of Garfinkle, Hollingsworth et al. and Barnes. Thus, in the Office Action, four references have been strung together and combined to make this obviousness rejection. This obviousness rejection is traversed. First, as discussed above, the Hollingsworth et al. reference fails to teach and disclose the specific interior chamber which is defined in the claims as between the plate rear surface and the inner surfaces of the prongs that has a defined thickness in relation to the vertical support. None of the other cited art in this asserted combination string cures this deficiency. Therefore, it is

believed that the asserted combination falls apart for that reason alone. However, it will also be pointed out that there are other shortcomings of this asserted combination (some of which have previously been alluded to).

In particular, the primary reference relied upon in this combination, Gibitz, fails to meet several different limitations recited in the claims. For example, as acknowledged by the Patent Examiner, Gibitz does not teach an interior chamber having a horizontal width less than or substantially equal to the thickness of the vertical support and does not teach a pair of prongs vertically spaced from a second pair. In particular, the asserted Gibitz reference relates to increasing the offset portion and providing a larger spacing or gap as it pertains to offset portion 123 (compare offset portion 123 of FIG. 4 with offset portion 23 of the prior art FIG. 2 in Gibitz). There would be teaching to modify the panel engaging hooks 122 of Gibitz with the extension prong 259 of Hollingsworth et al. for the reason that the Hollingsworth et al. relies upon rotating the implement upwardly after the extension 259 is placed into the hole, which appears to be contrary to the way in which the Gibitz device is intended to be inserted. In particular, Gibitz does not rely on a pivoting movement of a mounting bracket to facilitate mounting, but would appear to relate to pushing the mounting bracket perpendicularly relative to the back panel and then allowing it to slide vertically to drop into position, and thereafter installing the screw. Due to the significant differences in the operations of these two references, it is not seen that one would be motivated to make the asserted combination when the two rely on significant different principles of operation. Instead, it is respectfully submitted that the teaching or motivation for picking and choosing these two prior art references from the prior art and selecting different features comes from Applicant's patent application, not any specific teaching in the art. This is highlighted by the fact that the Office Action fails to reference any particular passage where the asserted motivation or teaching for making this combination arises. It is well settled law that the teaching or motivation for making the asserted combination must come from the prior art references themselves rather than Applicant's disclosure.

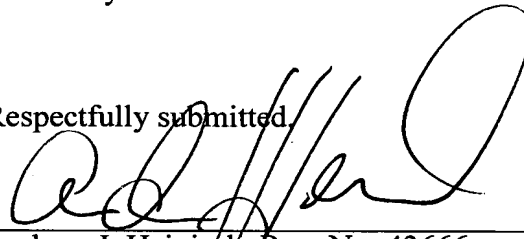
Because the other prior art references fail to clear these deficiencies in the overall asserted combination and the fact that the stringing of these four references together and asserting them is also not supported by any passage in any prior art reference, the asserted motivation or teaching for stringing these additional references into the overall combination also appears to be done with the improper use of hindsight. Accordingly, Applicant respectfully requests that the obviousness rejections based upon the combination of Gibitz in view of Garfinkle, Hollingsworth et al. and Barnes be withdrawn.

In re Appln. Of: Stanley C. Valiulis et al.
Application No.: 10/779,964

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. J. Heinisch', written over a horizontal line.

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